

Exhibit D

*State of California ex. rel. Ven-A-Care of the Florida Keys, Inc. v.
Abbott Laboratories, Inc., et al.*

Exhibit to Plaintiffs' Motion for Partial Summary Judgment



Effective: September 30, 2002 to August 15, 2004

West's Annotated California Codes

Welfare and Institutions Code

Division 9. Public Social Services

Part 3. Aid and Medical Assistance

Chapter 7. Basic Health Care

Article 3. Administration

→ **§ 14105.46. Legend and nonlegend drugs; definitions; estimated acquisition cost; reimbursement**

(a) For purposes of this section, the following definitions apply:

(1) "Estimated acquisition cost" means the department's best estimate of the price generally and currently paid by providers for a drug product sold by a particular manufacturer or principal labeler in a standard package.

(2) "Legend" means any drug whose labeling states "Caution: Federal law prohibits dispensing without prescription" or words of similar import.

(3) "Nonlegend" means any drug whose labeling does not contain the statement referenced in paragraph (2).

(4) "Single-source," "innovator multiple source," and "noninnovator multiple source" drugs have the same meaning as those terms are defined in Section 1396r-8(k)(7) of Title 42 of the United States.

(5) "Average sales price" means the price reported to the department as required by agreements between the State of California and the manufacturer.

(6) "Average wholesale price" means the price for a drug product listed in the department's price reference source.

(7) "Direct price" means the price for a drug product purchased directly from a drug manufacturer listed in the department's price reference source.

(b) The department shall establish the estimated acquisition cost of legend and nonlegend drugs as follows:

(1) For single-source and innovator multiple source drugs, the estimated acquisition cost shall be equal to the lower of the average sales price, as reported to the department by a drug manufacturer, and the average wholesale price minus 10 percent.

(2) For noninnovator multiple source drugs, the estimated acquisition cost shall be equal to the lower of the average sales price, as reported to the department by a drug manufacturer, and the average wholesale price minus 10 percent.

(c) Direct price shall not be used by the department to establish estimated acquisition cost.

(d) The reimbursement for legend and nonlegend drugs shall consist of the cost of the drug plus a professional fee for services.

CREDIT(S)

(Added by Stats.2002, c. 1161 (A.B.442), § 73, eff. Sept. 30, 2002.)

HISTORICAL AND STATUTORY NOTES2007 Electronic Update1CAQ2002 LegislationLegislative findings and declarations, and appropriations relating to Stats.2002, c. 1161 (A.B.442), see Historical and Statutory Notes under Business and Professions Code § 4426.For Governor's signing message regarding Stats.2002, c. 1161 (A.B.442), see Historical and Statutory Notes under Welfare and Institutions Code § 4094.2.West's Ann. Cal. Welf. & Inst. Code § 14105.46, CA WEL & INST § 14105.46

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